TWEED SHIRE COUNCIL

PLANNING CERTIFICATE UNDER SECTION 149
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

Applicant: Ms C O'Sullivan
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TOOWONG QLD 4066

Certificate No: 149C08/0117
Date of Issue: 18/01/2008
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Your Reference: 3500/53

Property Description: Lot 3 DP 771335, No. 2954 Kyogle Road Kunghur

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1(1)(a) As at the date of this certificate, the following local environmental planning instrument(s) apply to the subject land:

Tweed Local Environmental Plan 2000 (TLEP2000)

1(1)(b) As at the date of this certificate, the following draft local environmental plan(s) that have been placed on public exhibition under section 66(1)(b) of the Act apply to the subject land:

Draft Local Environmental Plan Amendment No 20 - Kings Forest / Shirewide

Draft Local Environmental Plan Amendment No 21 - Tweed Vegetation Management Plan

Draft Local Environmental Plan Amendment No 70 - DCP 40 Exempt & Complying Development - Date Change

Draft Local Environmental Plan Amendment No 76 - Tweed Shire Community Based Heritage Study

1(1)(c) As at the date of this certificate, the following development control plan(s) that have been prepared under section 72 of the Act apply to the subject land:

A 1 - Multi - Dwelling Housing and Tourist Accommodation

A 2 - Site Access and Parking Code

A 3 - Development of Flood Liable Land

A 4 - Advertising Signs Code

A 5 - Subdivision Manual

A 6 - Biting Midge and Mosquito Control

A 7 - Child Care Centres

A 8 - Brothels Policy

A 9 - Energy Smart Homes Policy

A10 - Exempt and Complying Development

A11 - Public Notification of Development Proposals

A12 - Dual Occupancy Controls

A13 - Socio - Economic Impact Assessment

A14 - Cut and Fill on Residential Land

1(2)(a) As at the date of this certificate, the following regional environmental plan(s) applies to the subject land. Any enquiries on the REPs should be directed to the Department of Planning:

North Coast Regional Environmental Plan 1988.

1(2)(b) As at the date of this certificate, the following draft regional environmental plan(s) apply to the subject land. Any enquiries on the draft REPs should be directed to the Department of Planning:

There are no draft regional environmental plans currently applying to the subject land.

1(3)(a) As at the date of this certificate, the following State environmental planning policies (SEPPs) apply to the subject land. Any enquiries on the SEPPs should be directed to the Department of Planning:

State Environmental Planning Policy No. 1 - Development Standards - Gazetted 17 October 1980

The Policy sets out the general principle that a development standard contained within an environmental planning instrument may be varied where strict compliance can be shown to be unreasonable or varied where strict compliance can be shown to be unreasonable or would tend to hinder the attainment of the objects specified in the Environmental Planning and Assessment Act, 1979.

State Environmental Planning Policy No. 4 - Development Without Consent (Amendment No. 7) - Gazetted 4 December 1981

This Policy allows development for the purpose of bushfire hazard reduction to be carried out on land to which the SEPP No. 4 applies without consent if the development is consistent with a plan of operations prepared under the Bush Fires Act 1949 and does not include clearing of wetlands identified in SEPP No. 14.

State Environmental Planning Policy No. 6 - Number of Storeys in a Building - Gazetted 10 December 1982

To provide a standard determination regarding the height of a building where the height is controlled by reference to the number of storeys.

State Environmental Planning Policy No. 8 - Surplus Public Land - Gazetted 8 April 1983

To promote and co-ordinate the orderly and economic use of surplus public land and provide for its development to be considered from a State rather than local perspective.

State Environmental Planning Policy No. 9 - Group Homes - Gazetted 7 October 1983

This policy controls the development of Group Homes on all land where dwellings are allowed.

State Environmental Planning Policy No. 11 - Traffic Generating Developments - Gazetted 9 August 1985

To ensure that applications for specific types of development are referred to the Traffic Authority for its comments prior to determination.

State Environmental Planning Policy No. 15 - Rural Landsharing Communities - Gazetted 9 April 1998

State Environmental Planning Policy No. 15 - Rural Landsharing Communities aims to encourage and facilitate development of rural landsharing communities to collectively manage land in an environmentally sensitive and sustainable manner and to provide for low cost housing. The Policy establishes criteria for rural landsharing community development, matters for Council consideration, environmental considerations, site analysis and management requirements for development proposed under the Policy.

State Environmental Planning Policy No. 16 - Tertiary Institutions - Gazetted 20 December 1985

To permit any kind of tertiary institution on land zoned for a specific kind of tertiary institution.

State Environmental Planning Policy No. 21 - Caravan Parks - Gazetted 24 April 1992

To regulate the use and development of caravan parks, and in certain instances, to enable their subdivision for lease purposes.

State Environmental Planning Policy No. 22 - Shops and Commercial Premises - Gazetted 9 January 1987

The policy allows with consent of council, a change of use from a shop or commercial premises or alternatively a commercial premises to a shop or another kind of commercial premises, where the new use is prohibited under an environmental planning instrument.

State Environmental Planning Policy No. 27 - Prison Sites - Gazetted 20 January 1989

To facilitate the erection and use of buildings for the purpose of prisons.

State Environmental Planning Policy No. 30 - Cattle Feedlots and Piggeries - Gazetted 8 December 1989

To ensure that all feedlots with a capacity of greater than 400 head are dealt with in a consistent manner, the Policy provides all councils with a consent role. Where development consent is required, proposals for cattle feedlots in excess of 400 head are designated development and require the provision of an environmental impact statement to accompany a development application.

State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land) - Gazetted 15 November 1991

To provide for redevelopment of urban land which is no longer required for the purpose for which it is currently zoned or used. Its purpose is to ensure that sites which have the potential to contribute to urban consolidation are made available for multi-unit housing efficiently and without delay.

State Environmental Planning Policy No. 33 - Hazardous and Offensive Development - Gazetted 13 March 1992

To provide a mechanism for the consideration of applications for hazardous and offensive industries, by ensuring that the consent authority has sufficient information to assess any such applications, to impose conditions to reduce or minimise any adverse impacts and to require advertising of applications for such developments.

State Environmental Planning Policy No. 34 - Major Employment Generating/Industrial Development - Gazetted 26 March 1993

To ensure an efficient and consistent approach to the determination of major employment generating industrial developments (where the development would result in at least 100 post-construction full time jobs or 20 in the case of intensive livestock operations, or have a capital investment value of $20 million or more, excluding land). This Policy provides that the Minister for Planning is the consent authority for such developments.

State Environmental Planning Policy No. 35 - Maintenance Dredging of Tidal Waterways - Gazetted 24 September 1993

This Policy provides a mechanism which enables the maintenance dredging of tidal waterways by public authorities, to be carried in a timely, cost effective and environmentally responsible manner in response to changing conditions in those waterways.

State Environmental Planning Policy No. 36 - Manufactured Homes Estate - Gazetted 13 July 1993

This policy:

(i) defines where Manufactured Homes Estates (MHEs) may be permitted and establishes criteria for the granting of development consent to these estates;

(ii) enables with development consent, the subdivision of MHE provided such subdivision

complies with the provision of the Local Government (Manufactured Homes Estates) Regulation 1993.

State Environmental Planning Policy No. 44 - Koala Habitat Protection - Gazetted 6 January 1995

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas, to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline by:

(a) requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat; and

(b) encouraging the identification of areas of core koala habitat; and

(c) encouraging the inclusion of areas of core koala habitat in environment protection zones.

State Environmental Planning Policy No. 48 - Major Putrescible Landfill Sites - Gazetted 29 December 1995

To ensure a consistency of approach in the assessment of such development proposals, to ensure that the significance of any proposal to the State is considered, and to ensure that the use of landfill sites as a means of waste is weighed against other waste management and waste disposal alternatives.

State Environmental Planning Policy No. 50 - Canal Estate Development - Gazetted 30 October 1997

This Policy provides that where the Policy applies a person shall not carry out canal estate development as defined in the Policy.

State Environmental Planning Policy No. 55 - Remediation of Land - Gazetted 28 August 1998

This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. The policy applies to the whole state, to ensure that remediation is permissible development and is always carried out to a high standard. It specifies when consent is required for remediation and lists considerations that are relevant when rezoning land and determining development applications.

State Environmental Planning Policy No. 62 - Sustainable Aquaculture - Gazetted 23 August 2000

To encourage the sustainable expansion of the aquaculture industry in NSW. The SEPP implements the regional strategies already developed by creating a simple approach to identify and categorise aquaculture development on the basis of its potential environmental impact. The SEPP also identifies aquaculture developments as designated development only where there are high potential environmental risks.

State Environmental Planning Policy No. 64 - Advertising and Signage - Gazetted 16 March 2001

This Policy provides new controls that will improve the quality of outdoor advertising and the environment.

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development - Gazetted 26 July 2002

This policy aims to improve the design quality of residential flat development in New South Wales. This policy applies to the whole of the state in respect of the erection of new residential flat buildings, the substantial redevelopment or refurbishment of an existing residential flat building, or conversion of an existing building to a residential flat building.

A residential flat building for the purpose of the policy is defined as a building of three or more storeys (not including levels that protrude less than 1.2 m above ground level that are devoted to car parking and storage) and four or more self-contained dwelling units. It does not apply to

buildings classified as Class 1a or 1b under the Building Code of Australia.

The policy provides design quality principles that must be satisfied, and the implementation of design review panels that provide independent advice to consent authorities and applicants on residential flat development proposals, development applications, draft Local Environmental Plans, Development Control Plans, Master Plans and Planning Policy documents.

State Environmental Planning Policy (Seniors Living) 2004 - Gazetted 31 March 2004

State Environmental Planning Policy (Seniors Living) 2004 aims to increase availability and to provide a wider choice of residential accommodation for older people or people with a disability. The Policy establishes matters for consideration, development standards and design requirements for development proposed under the Policy.

State Environmental Planning Policy (Major Projects) 2005 - Gazetted 25 May 2005

State Environmental Planning Policy (Major Projects) 2005 aims: -

(a) to identify development to which the development assessment and approval process under Part 3A of the Act applies,

(b) to identify any such development that is a critical infrastructure project for the purposes of Part 3A of the Act,

(c) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State,

(d) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes,

(e) to rationalise and clarify the provisions making the Minister the approval authority for development and sites of State significance, and to keep those provisions under review so that the approval process is devolved to councils when State planning objectives have been achieved.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 – Gazetted 16 February 2007

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 aims to provide for the proper management and development of mining, petroleum production and extractive material resources; to facilitate the orderly use and development of areas where the resources are located; and, to establish appropriate planning controls to encourage sustainable management of these resources.

1(3)(b) As at the date of this certificate, the following draft State environmental planning policy(s) that have been publicised as referred to in section 39(2) of the Act, apply to the subject land. Any enquiries on the draft SEPPs should be directed to the Department of Planning:

There are no such draft State environmental planning policies applying to the subject land.

2(a-d) Under the provisions of the planning instruments listed in Items 1(1)(a) above, the subject land is within the following zone(s) and is affected by the following landuse table:

Zone 2 (d) Village
Zone objectives
Primary objective
* to provide for residential development and a full range of services and facilities traditionally associated with a

rural village which is of a design and scale that makes a positive contribution to the character of the village.

Development within the zone

In Zone 2 (d) development for the purpose of the following is:

Item 1 allowed without consent:

* environmental facilities

Item 2 allowed only with consent:

* bed and breakfast
* dwelling houses if each is on an allotment of at least 450m2
* rural workers' dwellings
* any other buildings, works, places or land uses not included in Item 1, 3 or 4

Item 3 allowed only with consent and must satisfy the provisions of clause 8 (2):

* Forestry
* Sawmills
* helipads
* stock and sale yards

Item 4 prohibited:

* Abattoirs
* animal establishments
* display homes if adjoining an RTA classified road
* Heliports
* liquid fuel depots
* offensive or hazardous industries
* restricted premises
* airline terminals
* brothels
* extractive industries
* junkyards
* mines
* recreation vehicle areas
* tourist resorts

Zone 1 (a) Rural

Zone objectives

Primary objectives

* to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development.
* to protect rural character and amenity.

Secondary objectives

* to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.
* to provide for development that is not suitable in or near urban areas.
* to prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.
* to provide non-urban breaks between settlements to give a physical and community identity to each settlement.

Development within the zone

In Zone 1 (a) development for the purpose of the following is:

Item 1 allowed without consent:

* agriculture
* environmental facilities
* forestry

Item 2 allowed only with consent:

* bed and breakfast
* dwelling houses if each is on an allotment of at least 40 hectares or on an allotment referred to in clause 57
* multi-dwelling housing if:
  - (a) not more than two dwellings are involved, and
  - (b) they are attached, and
  - (c) they are on an allotment of at least 40 hectares or an allotment referred to in clause 57
* any other buildings, works, places or land uses not included in Item 1, 3 or 4

Item 3 allowed only with consent and must satisfy the provisions of clause 8 (2)

* boat repair and servicing facilities
* car parks
* child care centres
* educational establishments
* Heliports
* Hotels
* Institutions
* light industries
* Markets
* offensive or hazardous industries
* places of public worship
* service stations
* Transport terminals (other than airline terminals)
* boating facilities
* caravan parks (other than camping grounds) if connected to a reticulated sewerage system
* clubs
* helipads
* hospitals
* housing for older people or people with disabilities
* junkyards
* marinas
* motels
* places of assembly
* public buildings
* storage units

Item 4 prohibited:

* airline terminals
* boat showrooms
* bulky goods retailing
* caravan parks (other than camping grounds) if not connected to a reticulated sewerage system
* display homes
* industries (other than home industries, light industries, offensive or hazardous industries, rural industries or industries directly associated with or dependent on extractive industries)
* manufactured home estates
* multi-dwelling housing not included in Item 2
* restricted premises
* shops (other than general stores)
* boarding-houses
* brothels
* car repair stations
* commercial premises
* dwelling houses not included in Item 2
* integrated housing
* motor showrooms
* professional consulting rooms
* roadside stalls if requiring direct access to an RTA classified road

2(e) Minimum Standards for the Erection of a Dwelling-House:

See land use table listed in Items 2(a-d) above. If minimum standard not specified, no development standard applies.

2(f) Critical Habitat:

The subject land is not identified as including or comprising critical habitat as prescribed in the Threatened Species Conservation Act 1995 or (subject to section 5c) Part 7A of the Fisheries

Management Act 1994.

2(g) Conservation Area:

The subject land is not within a conservation area identified within the TLEP 2000.

2(h) Item of Environmental Heritage:

The subject land does not contain nor constitute an item of environmental heritage as listed in Schedule 2 of the TLEP 2000.

2(i) Clauses under Tweed Local Environmental Plan 2000

Clause 52 (Existing & Future Dam Areas)

(1) Objective

- to apply special provisions relating principally to environmental protection within particular areas shown on the zone map.

(2) In relation to land shown on the zone map in the manner indicated in Column 1 of the following Table, the provisions specified opposite in Column 2 apply.

Table

Column 1 Shown on the zone map by:	Column 2 Applicable provisions
#	A person must not carry out any development (except for purposes authorised under the *Forestry Act 1916* and purposes ordinarily incidental or ancillary to such purposes) on the land that will substantially change the topographic features or landscape or the natural state of the land, except with development consent.

4 Coastal Protection:

The Council has not been notified by the Department of Public Works that the land is affected by the operation of sections 38 or 39 of the Coastal Protection Act, 1979.

5 Mine Subsidence:

The subject land is not within an area proclaimed to be a Mine Subsidence District within the meaning of Section 15 of the Mine Subsidence Compensation Act, 1961.

6 Road Widening/Road Realignment:

The subject land is not affected by any road widening or realignment proposal under either Division 2 or Part 3 of the Roads Act, 1993, any environmental planning instrument or any resolution of the Council.

7(i) Land Slip:

The council has not adopted a policy to restrict development of the subject land because of the likelihood of land slip. Geotechnical investigations may be required prior to development of some sites, depending upon the characteristics of the site and the nature of development proposed.

7(ii) Bushfire:

The Council has adopted a policy to restrict development of the subject land because of the likelihood of bushfire hazard (see Item 11 below).

7(iii) Tidal Inundation:

Council has no records that indicate that the land is affected by tidal inundation. Accordingly, the Council has not adopted a policy to restrict development of the land in respect of tidal inundation.

7(iv) Subsidence:

Council records do not indicate that the land is affected by subsidence. Accordingly, the Council has not adopted a policy to restrict development of the land in respect to subsidence.

7(v) Acid Sulfate Soils:

The subject land is not identified as being affected by acid sulfate soils on Council's "Acid Sulfate Soil Planning Map".

7(vi) Any Other Risk:

Council has adopted a policy to restrict development of the subject land due to the following other identified risk: -

- ***Cattle Tick Dip Sites:***
  Council records do not indicate that the land is or has been used as a Cattle Tick Dip Site. Accordingly, no policy has been adopted to restrict development of the land in respect to cattle tick dip sites.

- ***Contamination:***
  Council has not by resolution, adopted a policy which may restrict development of the subject land in respect of potential contamination of that land.
  Due to the historical nature of land uses in the Tweed Shire, there is a possibility that land previously used for such purposes as agriculture, industrial, residential, commercial or similar uses would contain contamination. Enquiries should be made at the Council for any information held in their files and enquiries should also be made with all other relevant authorities. Tweed Shire Council has not yet prepared any detailed information as to whether this land is contaminated land.

7A. Flood related development controls information

(1)

All other properties within PMF - Dam Break area, upstream of Byangum (start of Tweed model)

Council has no flood records nor ground levels in this rural location. It is recommended that interested parties satisfy themselves as to the possible extent of flood affect on the property, if any, by local enquiry

Recent expert advice to Council indicates that there is a risk of failure of the Clarrie Hall Dam in a very extreme flood event. While the risk is very small and would only be as a result of a flood many times greater than any historical flood on record, the risk does exist. Council has put in place an emergency response plan and alerted all potentially affected residents.

Council, with the support of the NSW Government is investigating options for the upgrading of the dam spillway to eliminate this risk.

(1) Council records indicate that the land is not affected by a 1:100 year flood event and therefore the requirements of Development Control Plan Section A3 do not apply in this instance.

Council has adopted the Tweed Valley Floodplain Risk Management Study (and Draft Plan) 2005 - Part 2 Planning Controls for High Flow Areas dated August 2006. The subject land is not affected by this Policy.

(2) The subject land is not affected by any flooding under Council's Development Control Plan A3 – Development of Flood Liable Land.

8 Land Reserved for Acquisition:

The subject land is not identified as being subject to acquisition by a public authority (as referred to in section 27 of the EP&A Act 1979) under the provisions of any environmental planning instrument deemed or draft environmental planning instrument.

9 Contributions Plans:

As at the date of this certificate, the following contributions plan(s) apply (or may apply depending upon proposed future development) to the subject land:

Section 94 Plan No 4 - Tweed Road Contribution Plan
Section 94 Plan No 5 - Open Space Contributions
Section 94 Plan No 6 - Street Tree Planting in Residential Areas
Section 94 Plan No 11 - Library Facilities in Tweed Shire
Section 94 Plan No 12 - Bus Shelters
Section 94 Plan No 13 - Cemetery/Crematorium Facilities at Eviron Road, Duranbah
Section 94 Plan No 16 - Emergency Facilities (Surf Lifesaving)
Section 94 Plan No 18 - Council Administration Offices and Technical Support Facilities
Section 94 Plan No 26 - Regional Open Space

10 Matters arising under the Contaminated Land Management Act, 1997:

10(a) Investigation Area or Remediation Site:

As at the date of this certificate Council is not aware/has not been notified that the subject land is within land declared to be an investigation area or remediation site under Part 3 of the CLM Act 1997.

10(b) Investigation or Remediation Order:

As at the date of this certificate Council is not aware/has not been notified that the subject land is subject to an investigation order or a remediation order within the meaning of the CLM Act 1997.

10(c) Voluntary Investigation or Remediation Proposal:

As at the date of this certificate Council is not aware/has not been notified that the subject land is the subject of a voluntary investigation or remediation proposal that is subject of the Environment Protection Authority's agreement under section 19 or 26 of the CLM Act 1997.

10(d) Site Audit Statement:

Council is not aware that the subject land is subject of a site audit within the meaning of Part 4 of the CLM Act 1997. Council has not been notified/provided with a copy of any site audit statement pertaining to the subject land.

11 Bush Fire Prone Land

The subject land is identified as bush fire prone land in accordance with the Bush Fire Prone Land map certified in accordance with Section 146(2) of the Environmental Planning and Assessment Act, 1979, as amended.

12. Property Vegetation Plans

The subject land is not affected by a Property Vegetation Plan under the Native Vegetation Act 2003.

13. Orders under Trees (Disputes between Neighbours) Act 2006

Council has not been notified of any Order made under the Trees (Disputes between Neighbours) Act 2006 to carry out work in relation to a tree on the land.

14. Council Resolutions/Building Heights

The land is affected by a height limitation of 3 storeys under Tweed Local Environmental Plan 2000.

SPECIAL NOTATIONS

The land is identified as Other Rural Land (Farmland Protection Project) on the map referred to in Section 117(2) Direction No. 14 dated 30 September 2005.
The land is identified as Committed Urban Uses or Rural Residential Zones (Farmland Protection Project) on the map referred to in Section 117(2) Direction No. 14 dated 30 September 2005.

149(5) Information

1. The follow development consents have been issued within the last (5) years.

Application	Decision	Date	Description
DA05/1031	Approved	21/07/2006	boundary adjustment and establishment of a recreation establishment

2. Council has resolved to prepare Draft Local Environmental Plan Amendment No. 74 (Restoration of Lost Dwelling Entitlement) relating to the subject land.

   Council has resolved to prepare Draft Local Environmental Plan Amendment No. 80 (Clause 58 in Schedule 2) relating to the subject land.

   Council has resolved to prepare Draft Local Environmental Plan Amendment No 42 - Rural Settlement Strategy

3. The subject land is not affected by Council's Tree Preservation Order.

MIKE RAYNER
GENERAL MANAGER

Per .....